

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN JOSE DIVISION

4 ABAXIS, INC.,

5 Plaintiff-  
6 Counterdefendant,

7 v.

8 CEPHEID,

9 Defendant-  
10 Counterclaimant.

Case No. 5:10-cv-2840 LHK (HRL)

**STIPULATION AND [PROPOSED] ORDER  
CONTINUING HEARING AND CASE  
MANAGEMENT CONFERENCE**

to March 17, 2011, at 1:30 p.m.

11  
12 Pursuant to Civil Local Rules 6-1, 6-2, and 7-12 Plaintiff-Counterdefendant Abaxis Inc.  
13 (“Abaxis”) and Defendant-Counterclaimant Cepheid (“Cepheid”) respectfully submit the  
14 following Stipulation and Proposed Order:.

15 WHEREAS, Abaxis filed its Motion to Dismiss Cepheid’s Insufficiently Pled Inequitable  
16 Conduct Defense and Counterclaim on January 14, 2011;

17 WHEREAS, the Court set the hearing date for Abaxis’s Motion to Dismiss for March 3,  
18 2011;

19 WHEREAS, the Court noticed a continuation of the Case Management Conference  
20 (“CMC”) so as to follow the hearing on Abaxis’s Motion to Dismiss (ECF No. 34);

21 WHEREAS, Plaintiff now has a scheduling conflict for the previously noticed hearing  
22 date;

23 WHEREAS, the Parties have confirmed that both are available on March 10, 2011;

24 WHEREAS, Cooley has contacted the Court and requested a new hearing date of March  
25 10, 2011;

26 WHEREAS, continuing the date for the hearing and the CMC will not alter the date of any  
27 other event or deadline already fixed by Court order; and

28

1 WHEREAS, the previous time modifications in this case include the Stipulation and Order  
2 Extending (1) Cepheid's Time to File Its Answer and Amended Counterclaims to Amended  
3 Complaint, and (2) Abaxis' Time to File Its Response to Counterclaims (Dkt No. 28) and the  
4 Stipulation and Order Modifying Case Schedule (Dkt. No. 31)

5 NOW, THEREFORE, the Parties hereby stipulate and agree as follows:

6 1. The hearing on Abaxis's Motion to Dismiss Cepheid's Insufficiently Pled  
7 Inequitable Conduct Defense and Counterclaim shall be continued to March 10, 2011 or as soon  
8 thereafter as is practicable.

9 2. The Case Management Conference shall be continued and will follow the hearing  
10 on March 10, 2011 or such other date as the Court may order for the hearing.

11 3. Abaxis will file its reply pursuant to the original briefing schedule with a due date  
12 of February 17, 2011.

13 4. The deadline for the parties to submit an updated joint case management  
14 statement, currently scheduled for one week before the Case Management Conference, shall be  
15 extended from February 24, 2011, to one week prior to the reset date of the Case Management  
16 Conference.

17 **IT IS SO STIPULATED.**

18  
19 Dated: February 11, 2011

Dated: February 11, 2011

20  
21 COOLEY LLP

FISH & RICHARDSON PC

22 /s/Adam M. Pivovar  
23 Ricardo Rodriguez (Bar No. 173003)  
24 Adam M. Pivovar (Bar No. 246507)  
25 Attorneys for Plaintiff and Counterdefendant  
26 ABAXIS INC.

/s/ Steven Carlson  
27 Steven Carlson (Bar No. 206451)  
28 Limin Zheng (Bar No. 226875)  
Attorneys for Defendant and Counterclaimant  
CEPHEID



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**[PROPOSED] ORDER**

Pursuant to the stipulation of the parties and good cause appearing therefore;

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

The motion hearing and case management conference are rescheduled to **March 17, 2011**, at 1:30 p.m.

Dated: February 15, 2011



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Honorable Lucy H. Koh  
United States District Judge